

2022 JAN 12 AM 11:45

No. 009 - 2022

## REPORT

The Committee on \_\_\_\_\_

to which was referred this petition recommend that the petition be granted, be given leave to withdraw.

In City Council \_\_\_\_\_

Report Read and Accepted \_\_\_\_\_

\_\_\_\_\_ Clerk

## PETITION

of \_\_\_\_\_

Fitchburg Planning Board \_\_\_\_\_

In City Council \_\_\_\_\_

January 18, 2021 \_\_\_\_\_

Referred to Committee on \_\_\_\_\_

Community Development & Planning  
Economic Development Committee and \_\_\_\_\_

Amanda K. Alford, Provisional Clerk \_\_\_\_\_

TO THE HONORABLE CITY  
COUNCIL OF THE CITY OF  
FITCHBURG

Ladies and Gentlemen:

The undersigned Petition your Honorable Body to

Amend the Fitchburg Zoning Ordinance  
by making several corrections &  
clarifications, as described in the  
attached memo.

As voted by the Fitchburg Planning  
Board 12/8/2021.

*for the Planning Board*  
*Michael J. O'Hara*  
*PERMANENT PLANNER*

Community Development and Legislative Affairs Committee.

Jan 12 2022 11:33 am

**(1) Amend Section 181.313 by amending footnote 1:**

**1. Residential Uses by Right on Main Street.**

Notwithstanding the provisions of the Table of Principal Use Regulations, residential uses ~~OF THREE UNITS OR FEWER~~ are permitted by right in the DB District provided they are located above the first floor of the structure, as viewed from Main Street.

To clarify the Table of Principal Use Regulations that currently indicates that Residential Uses are permitted by Right on Main St. However, this conflicts with the density provision in the Multifamily Development (Section 181.743):

*"1. For every dwelling unit above three (3) units, there shall be an increase in minimum lot area, over and above the minimum for the district, equal to one-third the minimum lot area for the district. In districts with no minimum lot area, a Multi-Family use under this section shall have a minimum lot area of two thousand five hundred (2,500) square feet per unit, including the first three (3) units. "*

For reference, 409 Main St. has 4 units, and is roughly 2,500 square feet. So, in practice, this makes is unlikely for most Main St. properties to actually have by-right uses. This clarifies the situation for property owners and City officials.

**(2) Amend Section 181.336 by correcting typo at end of sentence:**

... "consistent with an intent to abandon such ~~an~~ an absence of maintenance..."

**(3) Amend Section 181.3362(b)iii**

Per Commissioner Barbadoro, this clarifies the parking requirements:

- i. The structure or use meets the zoning requirements for the number of off-street parking spaces in Section 181.512, provided that the parking spaces ~~may be~~ **are** located on the premises or on a dedicated private or public off-street parking facility located within eight hundred (800) feet or a reasonable distance from the lot where the principal use is located.

**(4) Amend Section 181.3366 by striking paragraph (e)**

Per Commissioner Barbadoro. This was listed as one of the criteria for granting a Special Permit to re-establish a non-conforming structure or use. However, it is not a criterion, but rather a consideration that the ZBA should make in evaluating an application.

**(5) Amend Section 181.4123, Lot Width**

Per Councilor Zarrella: *It is important to clarify that the subsequent "without the circumference..." refers back to the circle and not the structure.* As currently written, it would be easy to read *"if there is no structure without the circumference intersecting..."* (i.e., if all existing structures intersect the circumference of this circle).

Current Section:

Lot width. Lot width shall be determined by measuring the diameter of the largest circle which can be located at all points along a continuous but not necessarily straight line from the lot frontage to the principal structure on the lot or the front yard setback if there is no structure without the circumference intersecting the side lot lines.

Proposed amendment:

Lot width. Lot width shall be determined by measuring the diameter of the largest circle which can be located at all points along a continuous but not necessarily straight line from the lot frontage to the principal structure on the lot *(or the front yard setback if there is no structure)*, without the circumference intersecting the side lot lines.

**(6) Amend Section 181.6922 & 181.6923**

Delete "Board of Appeals" and insert "Planning Board" to refer to the correct Special Permit Granting Authority for Earth Removal.

**(7) Amend 181.743(2), "Multi-family Developments - Standards"**

"For Multi-Family Developments of nine (9) or more dwelling units and Residential Uses ~~by Right~~ on Main Street located above the first floor of the structure, the Planning Board may waive this density provision"

If the Board is granting a waiver is by Special Permit, it cannot be a "Residential Use by Right on Main Street", so this clarifies that this is a Special Permit and not by Right.

**(8) Zoning Map Amendment**

To amend the Fitchburg Zoning Map to make 4 School St. (parcel 18-88-0) entirely in the Downtown Business (DB) District. This parcel which contains the c. 1890 H.M. Francis-designed former Hoffman School, is currently split in half between Downtown Business and Residence B. The property has frontage on Main St. and is more in line with the purpose of the Downtown Business District. There is a redevelopment proposal in the planning stages for this parcel.



**(9) Amend section 181.85, "Floodplain Protection Overlay District (FPOD)"** by deleting in its entirety & replacing with the attached. These changes are mandated per the State NFIP Coordinator to bring the Zoning Ordinances into compliance with FEMA guidelines.

## **181.85 FLOODPLAIN PROTECTION OVERLAY DISTRICT (FPOD)**

### **181.851 Purpose.**

The purposes of the Floodplain Protection Overlay District are to ensure public safety through reducing the threats to life and personal injury; eliminate new hazards to emergency response officials; prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding; avoid the loss of utility services; eliminate costs associated with the response and cleanup of flooding conditions; reduce damage to public and private property resulting from flooding waters.

### **181.852 General.**

The Floodplain Protection Overlay District (FPOD) shall be in all portions of the city as indicated on the Flood Insurance Rate Maps as the Floodplain District. . The City's permit review process includes the requirement that the proponent obtain all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits, and must submit a list demonstrating that all necessary permits have been acquired. The Building Commissioner is the designed floodplain administrator (FPA) and shall maintain the maps and records and administer, interpret and enforce the provisions of this Section. Where there is a conflict between a mapped boundary and actual field conditions, the Building Commissioner shall determine the boundaries of the Floodplain District.

### **181.853 Overlay District.**

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas designated on the City's Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program, dated September 18, 1991. These maps indicate the 1%-chance regulatory floodplain. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Flood Insurance Study (FIS) report dated September 18, 1991. The effective FIRM, FBFM, and FIS report are incorporated herein by reference and are on file with the City Clerk, Department of Community Development and Planning, and Building Commissioner.

### **181.854 Definitions.**

**COMPENSATORY STORAGE** means a volume not previously used for flood storage and shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Further, with respect to waterways, such compensatory volume shall be provided within the same reach of the river, stream or creek.

**DEVELOPMENT** means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

**FLOOD BOUNDARY AND FLOODWAY MAP** means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

**FLOOD HAZARD BOUNDARY MAP (FHBM.)** An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. [US Code of Federal Regulations, Title 44, Part 59]

**FLOODWAY.** The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

**FUNCTIONALLY DEPENDENT USE** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

**HIGHEST ADJACENT GRADE** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

**HISTORIC STRUCTURE** means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (1) By an approved state program as determined by the Secretary of the Interior or
- (2) Directly by the Secretary of the Interior in states without approved programs.

[US Code of Federal Regulations, Title 44, Part 59]

**NEW CONSTRUCTION.** Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including

any subsequent improvements to such structures. New construction includes work determined to be substantial improvement. [Referenced Standard ASCE 24-14]

RECREATIONAL VEHICLE means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

REGULATORY FLOODWAY - see FLOODWAY.

SPECIAL FLOOD HAZARD AREA. The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

START OF CONSTRUCTION. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation

shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

VARIANCE means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Title 44 CFR §60.3 is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

#### 181.855 Changes in Base Flood Elevation.

If the City acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the City will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief

99 High St., 6<sup>th</sup> floor, Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator

MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114

#### **181.856 Development Regulations.**

The degree of flood protection required by this bylaw [ordinance] is considered reasonable but does not imply total flood protection. The following requirements apply in the FPOD:

181.8561. Within Zone A1-A30, all residential and nonresidential construction and substantial improvements shall comply with the following:

- Provisions of the Massachusetts State Building Code which address floodplain areas (currently 780 CMR 3107.0, "Flood Resistant Construction").
- Wetlands Protection Regulations (currently 310 CMR 10.00) .
- Minimum Requirement for the Subsurface Disposal of Sanitary Sewage (currently 310 CMR 15, Title V).

181.8562 Any variances from the provisions and requirements of the above-referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

181.8563. Permits are required for all proposed development in the Floodplain Overlay District. The City of Fitchburg requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

181.8564. In the floodway designated on the Flood Boundary and Floodway Map the following provisions shall apply:

- a. All encroachment, including fill, new construction, substantial improvements to existing structures and other development and all other development is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- b. Floodway encroachment. In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

Any encroachment meeting the above standard shall comply with the floodplain requirements of the Massachusetts State Building Code.

- c. The placement of mobile homes, except in an existing mobile home park or mobile home subdivision, is prohibited in the floodway.
- d. Subdivision and development proposals shall be reviewed to assure that such proposals minimize flood damage, adequate drainage is provided, and that public utilities and facilities are located and constructed so as to minimize flood damage.
- e. When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.
- f. In a riverine situation, the Building Commissioner shall notify the following of any alteration or relocation of a watercourse:
  - Adjacent Communities, especially upstream and downstream
  - Bordering States, if affected
  - NFIP State Coordinator  
 Massachusetts Department of Conservation and Recreation  
 251 Causeway Street, 8th floor  
 Boston, MA 02114
  - NFIP Program Specialist



Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor  
Boston, MA 02110

- g. Compensatory storage shall be provided for all flood storage volume that will be lost as the result of a proposed project within Bordering Land Subject to Flooding, when in the judgment of the issuing authority said loss will cause an increase or will contribute incrementally to an increase in the horizontal extent and level of flood waters during peak flows.

181.8565. Within Zone A1-A30, all mobile homes shall comply with the provisions of the Massachusetts State Building Code in addition to providing that:

- a. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home and its associated utilities will be at or above the base flood level;
- b. Adequate surface drainage and access for a hauler are provided; and
- c. In the instance of elevation on pilings, lots are large enough to permit steps, piling foundations are placed in stable soil no more than ten (10) feet apart and reinforcement is provided for piers more than six (6) feet above ground level.

181.8566. In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

181.8567. Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

181.8568. In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

### **181.857 Floodplain District Variance.**

The Board of Appeals may vary the requirements of this section (other than the provisions of the state regulations referenced above) upon the issuance of a variance. Variances may be issued for new construction and substantial improvements on lots one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. Variances for larger lots shall require increased technical justification. The Board of Appeals may grant such variance after considering the following:

181.8571. A showing of good and sufficient cause;

181.8572. A determination that failure to grant the variance would result in (non-financial) hardship to the applicant;

181.8573. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances; and

181.8574. A determination that the variance is the minimum necessary, considering the flood hazards, to afford relief.

### **181.858 Variance Conditions.**

181.8581. A variance shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

181.8582. If a variance outside of the floodway is granted, the Board of Appeals shall notify the applicant, in writing over its signature, that:

- a. The issuance of such variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25) for one hundred dollars (\$100) of insurance coverage; and
- b. Such construction below the base flood level increases risks to life and property.
- c. The Board of Appeals will maintain a record of all variance actions, including justification for their issuance issuance.

Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or on the State Inventory of Historic Places, without regard to the procedures set forth above, provided that documentation is included to show that the structure is indeed a verifiable historic structure, per NFIP regulations.

### **181.859 Abrogation & Severability**

1. The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.
2. If any section, provision or portion of this ordinance is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.



**CITY OF FITCHBURG  
PLANNING BOARD**  
718 MAIN STREET  
FITCHBURG, MASSACHUSETTS 01420

**FITCHBURG CITY CLERK**

***Jan 12 2022 3:12 pm***

(978) 829-1891  
PHONE

(978) 829-1965  
FAX

**DATE:** January 12, 2022

**TO:** City Council  
City Clerk

**FROM:** Paula Caron, Chair  
Fitchburg Planning Board *P. Caron / MCH*

**SUBJECT:** Fitchburg Zoning Ordinance  
Section 181.15, Minor Amendments

At its December 14, 2021 meeting the Fitchburg Planning Board voted unanimously (6-0) in favor of submitted a Petition proposing the attached Zoning Ordinance & Map amendments.



FITCHBURG CITY CLERK

# CITY OF FITCHBURG

2022 JAN 31 AM 10:18

OFFICE OF THE CITY CLERK

718 MAIN STREET, FITCHBURG, MA 01420

cityclerk@fitchburgma.gov FAX: 978-829-1964

To the Honorable City Council:

The Undersigned Petition your Honorable Body to

PETITION NO. 028-2022

Date in City Council 02/15/2022

Councilor Sam Squailia, to increase available resident off-street parking during a snow emergency as follows: Municipal parking garages will be free of charge to any vehicle that enters at the time designated by the DPW Commissioner and Mayor until 12pm or 5 hours after the declared winter parking ban is lifted, whichever is sooner.

Residents are urged to take advantage of this opportunity to move their cars from city streets, however standard parking rates will apply for any vehicle that enters a municipal garage before the designated time, or stays beyond the designated time.

Thank you,

Sam Squailia  
Fitchburg City Councilor-at-Large  
225 Scott Rd, Fitchburg, MA 01420  
ssquailia@fitchburgma.gov  
978-352-0310

PETITIONER'S NAME (PRINTED)	
PETITIONER'S SIGNATURE:	
ADDRESS:	
MAILING ADDRESS, IF DIFFERENT:	
CITY, STATE, ZIP	
PHONE:	
EMAIL:	

PETITION NUMBER: 28 -2022

Referred to the Committee(s) on:

APPOINTMENTS COMMITTEE	<input type="checkbox"/>	CITY PROPERTY	<input type="checkbox"/>	ECONOMIC DEVELOPMENT	<input type="checkbox"/>	FINANCE COMMITTEE	<input type="checkbox"/>
LEGISLATIVE AFFAIRS	<input checked="" type="checkbox"/>	PUBLIC SAFETY	<input type="checkbox"/>	PUBLIC WORKS	<input type="checkbox"/>	RECORDS	<input type="checkbox"/>

Report on the Committee on: LEGISLATIVE AFFAIRS COMMITTEE

To which was referred the petition would recommend the petition:

BE GRANTED ☐

BE GIVEN LEAVE TO WITHDRAW ☐

COMMITTEE MEMBERS:

IN CITY COUNCIL:

REPORT READ AND ACCEPTED:

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Amanda K. Alford, Provisional City Clerk

PRESENTED TO THE MAYOR

No. 00054 - 2022

For approval \_\_\_\_\_

\_\_\_\_\_  
City Clerk

MAYOR'S OFFICE

Fitchburg, Mass., \_\_\_\_\_

APPROVED

\_\_\_\_\_  
Mayor

## ORDER

Amendment to the intermunicipal agreement for Wastewater Collection between the City of Fitchburg and Town of Westminster.

\_\_\_\_\_  
In City Council,

March 15, 2022  
\_\_\_\_\_

Order read and  
Referred to the Legislative Affairs Committee.

Amanda K. Alford, Provisional Clerk  
\_\_\_\_\_  
Clerk

# City of Fitchburg

\_\_\_\_\_  
In City Council,

ORDERED:-- That

WHEREAS, a third amendment is necessary in order to allow the Town of Westminster to transfer discharge from the Route 31 sewer line to the Route 2A sewer line and the Parties entered into the Agreement and wish to continue into good faith negotiations relative to the terms of a new Intermunicipal Agreement after receipt of certain studies that remain outstand and input from the Department of Environmental Protection and the Environmental Protection Agency so as to best accommodate increased flow from Westminster.

NOW THEREFORE, IT IS ORDERED, that the City of Fitchburg shall, through its Mayor, Stephen L. DiNatale, approve and authorize the execution and delivery of the attached Third Amendment to the Certain Intermunicipal Agreement for Wastewater Collection, Treatment and Disposal between the City of Fitchburg, Massachusetts and the Town of Westminster, Massachusetts, in the current or substantially similar form, and to authorize all other acts and documents which may be necessary, helpful or convenient to effectuate this Amendment.

FITCHBURG CITY CLERK

2022 MAR 10 AM 11:01

2022 MAR 10 AM 11:01

FITCHBURG CITY CLERK

**THIRD AMENDMENT TO THE  
CERTAIN INTERMUNICIPAL AGREEMENT FOR  
WASTEWATER COLLECTION, TREATMENT, AND DISPOSAL  
BETWEEN THE CITY OF FITCHBURG, MASSACHUSETTS AND  
THE TOWN OF WESTMINSTER, MASSACHUSETTS**

This amendment to the Intermunicipal Agreement for Wastewater Collection, Treatment and Disposal Between City of Fitchburg, Massachusetts and Town of Westminster, Massachusetts ("the Agreement"), is entered into by and between the City of Fitchburg, Worcester County, Massachusetts, by its Mayor ("Fitchburg" or the "City"), and the Town of Westminster, Worcester County, Massachusetts, by its Board of Selectmen ("Westminster" or the "Town") (Collectively "the Parties") on this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

WHEREAS, the Agreement granted to Westminster the right to discharge a certain amount of wastewater into Fitchburg's sewer system;

WHEREAS, the Agreement was modified by a First Amendment to the Agreement dated May 27, 1998 and subsequently extended for a period of two (2) years by a Second Amendment to the Agreement dated March 17, 2020;

WHEREAS, the Parties wish immediately to allow Westminster to transfer the discharge of up to 50,000 gallons per day (GPD) from the Route 31 sewer line to the Route 2A sewer line;

WHEREAS, the Parties entered into the Agreement wish to enter into good faith negotiations relative to the terms of a new Intermunicipal Agreement;

WHEREAS, the Parties will not be able to do so until Fitchburg, based on dialogue with the Massachusetts Department of Environmental Protection, determines how it may be able to provide Westminster with additional flow based on improvements to the City's sewer system, and;

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereby agree and covenant as follows:

1. The Town shall be allowed to transfer the discharge of up to 50,000 gallons GPD from the Route 31 sewer line to the Route 2A sewer line. The rates of discharge into the City's sewer collection system at both metering locations shall not be increased without a written amendment to this Agreement. Accordingly, the Agreement shall be modified by amending subparagraph 12.1 as follows:

12.1 Westminster agrees to purchase sewage disposal services and capacity from Fitchburg in accordance with the terms and conditions of this Agreement. Westminster shall be entitled to discharge 320,000 gallons per day of Normal Strength Wastewater into Fitchburg's sewer collection system at agreed upon metered locations. Westminster shall discharge up to 300,000 GPD through the Route 2A metering station and up to 20,000 GPD through the Route 31 metering station. The rates of discharge into the City's sewer



collection system at both metering locations shall not be increased without a written amendment to this Agreement.

2. Pursuant to Paragraph 23 of the Agreement and to the Second Amendment to the Agreement dated March 17, 2020, the parties hereby extend the term of the Agreement for two (2) years until March 13, 2024.

Executed under seal as of the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**CITY OF FITCHBURG**

By: \_\_\_\_\_  
Stephen L. DiNatale, Mayor

Approved by Fitchburg Water &  
Wastewater Commission

By: \_\_\_\_\_  
Richard Healey, Chairman

Approved as to Form and Legality:

By: \_\_\_\_\_  
Vincent Pusateri II, City Solicitor

**TOWN OF WESTMINSTER**

By: \_\_\_\_\_  
Selectman, \_\_\_\_\_

By: \_\_\_\_\_  
Selectman, \_\_\_\_\_

By: \_\_\_\_\_  
Selectman, \_\_\_\_\_

By: \_\_\_\_\_  
Selectman, \_\_\_\_\_

Westminster Public

By: \_\_\_\_\_

Works Commission:

\_\_\_\_\_  
Commissioner, \_\_\_\_\_

By: \_\_\_\_\_  
Commissioner, \_\_\_\_\_

By: \_\_\_\_\_  
Commissioner, \_\_\_\_\_

Approved as to Form and Legality:

By: \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

## Alford, Amanda

---

**From:** Erickson, Nicholas  
**Sent:** Monday, March 21, 2022 3:41 PM  
**To:** Devon Moran External; City Clerk  
**Cc:** Alford, Amanda; Vincent Pusateri II; Mark McNamara; Devon Moran  
**Subject:** RE: Westminster Wastewater IMA Extension - Order & Amendment

Hello All,

FYI the Water/ Wastewater Commission voted unanimously to approve the Westminster Wastewater IMA Amendment. Is there any way that we can pass this information on to the City Councilors so they are aware when this matter is discussed during the respective subcommittee meeting?

-Nick

---

**From:** Devon Moran [mailto:dmoran@pusaterilaw.com]  
**Sent:** Thursday, March 10, 2022 10:59 AM  
**To:** City Clerk <CityClerk@fitchburgma.gov>  
**Cc:** Alford, Amanda <AAlford@fitchburgma.gov>; Vincent Pusateri II <vpusateri@pusaterilaw.com>; Erickson, Nicholas <NErickson@fitchburgma.gov>; Mark McNamara <MMcNamara@fitchburgma.gov>; Devon Moran <DMoran@fitchburgma.gov>  
**Subject:** Westminster Wastewater IMA Extension - Order & Amendment

Good morning,

Attached please find for submission for City Council's Agenda, an Order and Westminster Wastewater IMA Amendment.



**Devon A. Moran** | Paralegal | Pusateri & Wilson, P.C.  
128 Prichard Street, Fitchburg, MA 01420  
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